

Federal Maritime Commission

§ 503.41

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(b) Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this part, nor shall this part be authority to withhold information from Congress.

(c) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this part. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this section under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.

(d) Whenever a request is made which involves access to records described in paragraph (a)(7)(i) of this section and the investigation or proceeding involves a possible violation of criminal law, and there is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Commission may, during only such time as that circumstance continues, treat the records as not subject to the requirements of 5 U.S.C. 552 and this subpart.

§ 503.34 Annual report of public information request activity.

(a) On or before February 1 of each year, the Commission shall submit to the Attorney General of the United States, as required by the Attorney General, a report which shall cover the preceding fiscal year and which shall include:

(1) The number of determinations made not to comply with requests for records made to the Commission under this Subpart and the reasons for each such determination;

(2)(i) The number of appeals made by persons under § 503.32, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

(ii) A complete list of all statutes relied upon to authorize withholding of information under § 503.33(a)(3), a description of whether a court has upheld the Commission's decision to withhold information under each such statute, and a concise description of the scope of any information withheld;

(3) The number of requests for records pending before the Commission as of September 30 of the preceding year, and the median number of days that such requests had been pending as of that date;

(4) The number of requests for records received by the Commission and the number of requests which the Commission processed;

(5) The median number of days taken to process different types of requests;

(6) The total amount of fees collected for processing requests; and

(7) The number of full-time staff devoted to processing requests for records under this section, and total amount expended for processing such requests.

(b) Each such report shall be made available to the public at the Office of the Secretary, Federal Maritime Commission, Washington, D.C. 20573 and on the Commission's web site (www.fmc.gov).

Subpart E—Fees

§ 503.41 Policy and services available.

Pursuant to policies established by Congress, the Government's costs for services provided to identifiable persons are to be recovered by the payment of fees (Independent Offices Appropriations Act, 31 U.S.C. 9701 and Freedom of Information Reform Act of 1986, October 27, 1986, 5 U.S.C. 552). Except as otherwise noted, it is the general policy of the Commission not to waive or reduce service and filing fees contained in this chapter. In extraordinary situations, the Commission will

accept requests for waivers or fee reductions. Such requests are to be made to the Secretary of the Commission at the time of the information request or the filing of documents and must demonstrate that the waiver or reduction of a fee is in the best interest of the public, or that payment of a fee would impose an undue hardship. The Secretary will notify the requestor of the decision to grant or deny the request for waiver or reduction.

(a) Upon request, the following services are available upon the payment of the fees hereinafter prescribed; except that no fees shall be assessed for search, duplication or review in connection with requests for single copies of materials described in §§ 503.11 and 503.21:

- (1) Records/documents search.
- (2) Duplication of records/documents.
- (3) Review of records/documents.
- (4) Certification of copies of records/documents.

(b) Fees shall also be assessed for the following services provided by the Commission:

(1) Placing one's name, as an interested party, on the mailing list of a docketed proceeding.

(2) Processing nonattorney applications to practice before the Commission.

[49 FR 44401, Nov. 6, 1984, as amended at 52 FR 13682, Apr. 24, 1987; 59 FR 59170, Nov. 16, 1994; 63 FR 50535, Sept. 22, 1998]

§ 503.42 Payment of fees and charges.

The fees charged for special services may be paid through the mail by check, draft, or postal money order, payable to the Federal Maritime Commission, except for charges for transcripts of hearings. Transcripts of hearings, testimony and oral argument are furnished by a nongovernmental contractor, and may be purchased directly from the reporting firm.

§ 503.43 Fees for services.

(a) *Definitions.* The following definitions apply to the terms when used in this subpart:

(1) *Search* means all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Search for material will

be done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. Search is distinguished, moreover, from *review* of material in order to determine whether the material is exempt from disclosure. Searches may be done manually or by computer using existing programming.

(2) *Duplication* means the process of making a copy of a document necessary to respond to a Freedom of Information Act or other request. Such copies can take the form of paper or machine readable documentation (e.g., magnetic tape or disk), among others.

(3) *Review* means the process of examining documents located in response to a commercial use request to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(4) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the agency must determine the use to which a requester will put the documents requested. Where the agency has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the agency will seek additional clarification before assigning the request to a specific category.

(5) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(6) *Non-commercial scientific institution* means an institution that is not operated on a *commercial* basis as that term